

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

WALDEMAR LUGO ALVAREZ

Debtor

CASE NO. 10-02846(ESL)

CHAPTER 13

OBJECTION TO CONFIRMATION

TO THE HONORABLE COURT:

COMES NOW creditor **BANFIN REALTY, S.E. ("BANFIN REALTY")**, through its undersigned counsel, and very respectfully alleges, states and prays:

1. On April 8, 2010 (Docket No. 1), Debtor filed a voluntary petition for relief under Chapter 13 of the Bankruptcy Code.
2. On April 8, 2010 (Docket No. 3), Debtor filed a Chapter 13 plan providing for 60 monthly payments of \$1,000 and a lump sum payment of \$200,000 within 36 months from the sale or refinance of real property.
3. BANFIN REALTY is the owner of an office building known as NACIONAL PLAZA, at 431 Ponce de León Avenue, Hato Rey, Puerto Rico.
4. Debtor occupies Suite 326 at NACIONAL PLAZA, an office space of approximately 1012.53 square feet, with a monthly rental of \$1,265.67, utility expenses of \$400.79, operating expenses of \$274.22, where he conducts a medical practice, and also occupies parking with a monthly rent of \$100.00.
5. At the time of the filing of the petition, Debtor was indebted to BANFIN REALTY in the amount of \$33,775.64. See Claim No. 17 filed on June 14, 2010.
6. Since filing, Debtor has continued to occupy the premises and parking at NACIONAL PLAZA , with monthly charges of \$2,120.68.

7. On July 20, 2010 (Docket No. 28), BANFIN REALTY filed a Motion for Payment of Administrative Expense, since Debtor had failed to pay administrative expenses in the amount of **\$8,482.72**, pursuant to Section 507 (a) (1) of the Bankruptcy Code, 11 U.S. C. §507(a)(1). The motion also requested the entry of an order directing Debtor to provide for the assumption or rejection of its lease contract with BANFIN REALTY, S.E. in his Chapter 13 plan, pursuant to 11 U.S.C. Sec. 365.

8. On September 9, 2010 (Docket No. 35), this Honorable Court entered an order granting BANFIN REALTY's motion.

9. Notwithstanding the foregoing, Debtor has failed to pay administrative rent, accumulating arrears of \$10,603.40.

10. Debtor's plan dated April 8, 2010 may not be confirmed.

(a) LACK OF FEASIBILITY, 11 U.S.C. §1325(a)(6), Debtor has failed to pay his administrative expenses. In addition, he is unable to pay rent charges of his place of business.

(b) DOES NOT PROVIDE FOR ADMINISTRATIVE CREDITORS, 11 U.S.C. §1325(a)(5).

(c) FAILS DISPOSABLE INCOME TEST, requiring an amendment to Schedules I and J, 11 U.S.C. §1325(b)(1)(B);

WHEREFORE, it is respectfully requested that this Honorable Court enter an order denying the confirmation of Debtor's plan dated April 8, 2010.

NOTICE

WITHIN FOURTEEN (14) DAYS FROM SERVICE OF THIS MOTION, ANY PARTY OBJECTING TO THE RELIEF SOUGHT HEREIN, SHALL SERVE AND FILE AN OBJECTION OR OTHER APPROPRIATE RESPONSE TO THIS MOTION WITH THE CLERK'S OFFICE OF THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF PUERTO RICO. IF NO OBJECTION OR OTHER RESPONSE IS FILED WITHIN THE TIME ALLOWED HEREIN, THE MOTION WILL BE DEEMED

UNOPPOSED AND MAY BE GRANTED UNLESS: (1) THE REQUESTED RELIEF IS FORBIDDEN BY LAW; (2) THE REQUEST RELIEF IS AGAINST PUBLIC POLICY; OR (3) IN THE OPINION OF THE COURT, THE INTEREST OF JUSTICE REQUIRES OTHERWISE.

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been filed electronically on this day with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to: José M. Prieto Carballo, Esq. JPC@jpcclawpr.com; José M. Carrión Morales, Trustee, newecfmail@ch13-pr.com, and to the parties who have made an electronic appearance in this case.

San Juan, Puerto Rico, this 2nd day of October, 2010.

s/Sergio A. Ramírez de Arellano
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